

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
BID PROTEST**

FMS INVESTMENT CORP., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	
)	No. 18-204C (consolidated)
THE UNITED STATES,)	
)	Judge Thomas C. Wheeler
Defendant,)	
)	
and)	
)	
PERFORMANT RECOVERY, INC., and)	
WINDHAM PROFESSIONALS, INC.)	
)	
Intervenor-Defendants.)	

NOTICE

Defendant, the United States, respectfully submits this notice to advise the Court and all parties of the Department of Education's (ED) ongoing review of the claims alleged in the filed protests as well as of the underlying solicitation. Since the 19 protests currently pending before the Court were filed, ED has been reviewing this solicitation in order to assess its options and to identify the best path forward for the agency and borrowers. ED has reached a point in its analysis where it appears likely that a course of action other than continued litigation of the pending protests will be pursued. ED has not completed the analysis yet and has not made a final decision as to a course of action. All options remain on the table. However, given the amount of time and resources that the Court and the parties will be dedicating to this litigation in the immediate future, we feel compelled to inform the Court and the parties of this likelihood. We are open to continuing with the litigation under the current or a modified schedule, or to a stay of proceedings to allow ED to finish its assessment. Whatever the Court decides, or other

parties suggest, ED would continue its voluntary stay of the contract awards, as it indicated at the outset of this litigation, until the consolidated bid protests are resolved in this Court.

Respectfully submitted,

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Director

s/ Patricia M. McCarthy
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